(2013) 02 AP CK 0048

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4874 of 2013

Syed Rasool Hussaini and Another — APPELLANT

Vs

A.P. State Wakf Board and Another — RESPONDENT

Date of Decision : 25-02-2013

Acts Referred:

Waqf Act, 1995 — Section 46, 47, 48

Citation : (2013) 3 ALD 271 : (2013) 3 ALT 38

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : Mirza Safiulla Baig, for the Appellant; Habeeb-Ul-Rahman, Counsel for Respondent No. 1 and Mr. A.M. Qureshi, Counsel, for the Respondent

Judgement

L. Narasimha Reddy, J.—The petitioners are residents of Penukonda Village, Anantapur District. There is a Dargah, by name Haz Baba Fakruddin, at that place. Urs is conducted every year. According to the petitioners, the income of Dargah is more than one crore per year. The 2nd respondent is the Muthawalli of the Dargah. The grievance of the petitioners is that the accounts of the Dargah are not being audited by the Wakf Board and taking advantage of the same, the 2nd respondent is misappropriating the amounts. They pray for a direction to the 1st respondent to initiate action against the 2nd respondent for not furnishing the true statement of accounts year after year. Heard the learned counsel for the petitioners, the learned Standing counsel for the 1st respondent and the learned counsel for the 2nd respondent.

2. It is not in dispute that the 2nd respondent is functioning as Muthawalli of the Dargah referred to above. Section 46 of the Wakf Act, 1995 (for short ''the Act'') places an obligation on the Wakf to submit its annual accounts to the Wakf Board. Section 47 of the Act casts duty upon the Wakf Board to verify and audit the accounts so submitted. It has to appoint an Auditor, from a panel of the Auditors prepared by the State Government. Admittedly, such a step was not taken in respect of the Wakf in question. Irrespective of the income of the Wakf,

auditing becomes important. It is only when the accounts are properly audited, that transparency can be ensured.

3. It is brought to the notice of this Court that when the Chairman of the Wakf Board appointed an Auditor to audit the accounts of the Wakf, O.A.A. No. 9 of 2009 was filed before the A.P. Wakf Tribunal and an order of stay was passed therein. The power to appoint an Auditor is vested in the Wakf Board. Mere pendency of the O.A.A. would not come in the way of auditing of the accounts.

4. Hence, the writ petition is disposed of, directing the first respondent to appoint an Auditor from out of the panel of Auditors prepared by the State Government; to audit the accounts of the Dargah Haz Baba Fakruddin, and to ensure that the accounts are audited. If any remarks are offered by the Auditor, the same shall be dealt with in accordance with Section 48 of the Act. The miscellaneous petition filed in this writ petition shall also stand disposed of. There shall be no order as to costs.